IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

Crl.MC.No. 3580 of 2007()

CC.262/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT, VARKALA

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PETITIONER: 1ST ACCUSED

ABDUL RAHMAN S., S/O. SHAHUL HAMEED,
PALIYAKUDY, LEPPADEE THERUVA, THIRUNELVELI DIST.

BY ADV. SRI.J.DEVADANAM
SRI.VINOD J.DEV
SRI.PRAMOD J.DEV

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. PASSALUDDEEN,
THUNDUVILA HOUSE, PARAYIL DESOM,
EDAVA VILLAGE, THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3580 of 2007

Dated this the 29th day of November, 2007

O R D E R

Petitioner faces indictment in a prosecution for offences punishable, inter alia, under Section 380 I.P.C. The crime was registered in 2002. Final report has been filed and cognizance has been taken by the learned Magistrate. The petitioner has not entered appearance so far. Coercive processes have been issued against the petitioner by the learned Magistrate. He finds such processes chasing him now.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate and apply for bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not

consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-